

REMARKS

Claims 1-20 are pending. No new matter has been added.

CLAIM REJECTIONS35 U.S.C. § 102 Rejection

Claims 1-16, and 19-20 are rejected under 35 U.S.C. §102(e) as being anticipated by Fox et al. (U.S. Patent No. 6,535,227) (hereinafter, Fox). The Applicant has reviewed the cited reference and respectfully submits that the present invention as recited in Claims 1-16, and 19-20 is not anticipated by Fox. The rejection is respectfully traversed for the following rationale.

CLAIM 1

The Examiner is respectfully directed to independent Claim 1 which recites that features of the present invention are directed to a security indication spanning tree method comprising:

determining asset value of a network node;  
ascertaining exposure rating of said network node;  
establishing a functional priority risk indicator for indicating the likelihood of an attack from another network node; and  
creating a spanning tree schematic of a network including said network node, wherein said spanning tree schematic includes an indication of said asset value.

Emphasis added.

Independent Claims 10 and 15 recite features similar to those of independent Claim 1. Claims 2-9, 11-14, 16 and 19-20 depend from Claims 1, 10, and 15 respectively and recite further features of the claimed invention.

According to the Federal Circuit, “anticipation requires the disclosure in a single prior art reference of each claim under consideration”. W.L. Gore & Assocs. V. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claims”. (Emphasis added.) Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984).

Fox does not anticipate a security indication spanning tree method that includes the “determining asset value of a network node” or “creating a spanning tree schematic of a network including said network node, wherein said spanning tree schematic includes an indication of said asset value” (emphasis added) as is recited in Applicant’s Claim 1. Applicant understands Fox to disclose a method of using a graphical user interface on a computer screen “for determining the vulnerability posture of a network.” Fox, ABSTRACT. In lines 26-33, Fox is described as disclosing the following:

The respective network icons are linked together in an arrangement corresponding to how network elements are interconnected within the network. Selected portions of the network map turn a different color indicative of a vulnerability that has been established for that portion of the network after vulnerability posture of the network has been established.

Applicant respectfully asserts that nowhere within Fox is there a description of “determining asset value of a network node”, nor “creating a spanning tree schematic of a network including said network node, wherein said spanning tree schematic includes an indication of said asset value” as recited in Applicant’s Claim 1. The present Office Action cites Fox’s abstract, and Fox’s column 3, lines 34-59, as disclosing “determining asset value of a network node”, and Fox’s abstract and Figures 7, 9, and 10 as disclosing “creating a spanning tree schematic of a network including said network node, wherein said spanning tree schematic includes an indication of said asset value”. However, Applicant respectfully states that none of these citations mention an “asset value”, nor describe determining an asset value as being a part of the technology. Thus, Fox remains silent as to “determining asset value of a network node”, and as to an “asset value”.

Therefore, Applicant respectfully submits that Fox does not anticipate the present claimed invention as recited in Claims 1, 10, and 15, and as such, Claims 1, 10, and 15 are in condition for allowance. Accordingly, Applicant also respectfully submits that Fox does not anticipate the present claimed invention as is recited in Claims 2-9 dependent on Claim 1, 11-14 dependent on Claim 10, and that Claims 16 and 19-20 dependent on Claim 15, and Claims 2-16, and 19-20 overcome the Examiner’s basis for rejection under 35 U.S.C. 102(e) as being dependent on an allowable base claim.

35 U.S.C. § 103 Rejection

The present Office Action rejected Claims 17 and 18 under 35 U.S.C. §103(a) as being unpatentable over Fox in view of Burrows et al (U.S. Patent Application No. 2002/0073338) (hereinafter, Burrows). Applicant respectfully submits that features of the present invention are neither taught nor suggested by Fox or Burrows, alone or in combination.

**To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (MPEP 2143.03).**

Burrows does not remedy the deficiencies in Fox in that neither Fox nor Burrows teaches or suggests “determining asset value of a network node”, nor “creating a spanning tree schematic of a network including said network node, wherein said spanning tree schematic includes an indication of said asset value”, as recited in Claim 1.

Independent Claim 15 recites similar features to that of Claim 1, and should be patentable for similar reasons stated herein that independent Claim 1 should be patentable. Claims 17 and 18 depend from Claims 15. Applicant respectfully submits that dependent Claims 17 and 18 are patentable as depending from an allowable base claim.

CONCLUSION

In light of the above-listed remarks, the Applicant respectfully requests allowance of the Claims.

The Examiner is urged to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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